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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
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10 EQUAL EMPLOYMENT OPPORTUNITY  
11 COMMISSION,

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13 Plaintiff,

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15 v.

16  
17 TAYLOR SHELLFISH COMPANY, INC.,  
18 Defendant.

CIVIL ACTION NO. C16-01517 RAJ

[PROPOSED] CONSENT DECREE

19  
20 I. INTRODUCTION

21 1. Plaintiff U.S. Equal Employment Opportunity Commission (EEOC) brought this  
22 lawsuit under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e- *et seq.*, to correct  
23 unlawful employment practices on behalf of charging party Jeremy Daniels. The EEOC filed this  
24 lawsuit on September 28, 2016 alleging that Defendant Taylor Shellfish Company, Inc. subjected  
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[PROPOSED] CONSENT DECREE  
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EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
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Seattle, Washington 98104-1061  
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1 Mr. Daniels to a hostile work environment based on his race and retaliated against him for  
2 engaging in protected activity, resulting in his constructive discharge in violation of Title VII.

3 2. Mr. Daniels filed a charge of discrimination with the EEOC. After investigating,  
4 the EEOC sent Taylor a Letter of Determination with a finding of reasonable cause to believe  
5 that Taylor violated Title VII based on Mr. Daniels' discrimination charge. Thereafter, EEOC  
6 attempted to conciliate the charge. However, conciliation was unsuccessful.

7 3. The parties want to conclude fully and finally all claims arising out of the EEOC's  
8 Complaint and Mr. Daniel's charge of discrimination filed with EEOC. The EEOC and Taylor  
9 enter into this Consent Decree to further the objectives of equal employment opportunity in Title  
10 VII.

## 11 II. JURISDICTION AND VENUE

12 4. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
13 1343 and 1345. This action is authorized pursuant to Sections 706(f) (1) and (3) of Title VII of  
14 the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f) (1) and (3), and Section 102  
15 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The parties agree that the alleged acts took  
16 place within the jurisdiction of the United States District Court for the Western District of  
17 Washington.

## 18 III. SETTLEMENT SCOPE

19 5. This Consent Decree is the final and complete resolution of all Title VII  
20 allegations of unlawful employment practices contained in Mr. Daniels' discrimination charge,  
21 in the EEOC's administrative determination, and in the Complaint filed herein, including all  
22 claims by the EEOC and Taylor for attorney fees and costs.

23 6. No waiver, modification or amendment of any provision of this Consent Decree  
24 shall be effective unless made in writing and approved by the Parties to this Decree, and any  
25

substantive change, modification or amendment of any provision of this Consent Decree shall also require approval by the Court.

### III. MONETARY RELIEF

7. In settlement of this lawsuit, Defendant agrees to pay Jeremy Daniels the total amount of \$160,000 within (20) days of the date of entry of this Consent Decree by delivering the following to Mr. Daniels' home address by overnight mail with proof of delivery to EEOC:

a. A check in the amount of \$5,000 as lost wages payable to Mr. Daniels. The check shall be reduced by any applicable deductions for the employee's portion of FICA and applicable federal and state income tax withholdings related to the payment of wages. Defendant shall include a statement of payments and deductions; and

b. A separate check in the amount of \$155,000 as compensatory damages payable to Mr. Daniels. Defendant will issue Mr. Daniels an IRS form 1099 for the payment described in this subpart (b).

c. Defendant will not condition the receipt of monetary relief on Mr. Daniels' agreement to: (a) maintain as confidential the facts and/or allegations underlying his charge and complaint and the terms of this Decree; (b) waive his statutory right to file a future charge with any government agency; (c) agree to a non-disparagement and/or confidentiality agreement; or (d) release any claims beyond the Title VII claims at issue in this action and which this Consent Decree resolves.

### V. INJUNCTIVE AND OTHER RELIEF

#### A. General Provisions

8. Defendant and its officers, agents, employees, including all managers and supervisors, and successors and assigns at the time that this Decree becomes effective, are enjoined from engaging in any of the following unlawful conduct: (a) discriminating against or

1 harassing any employee based on race and (b) retaliating against any employee who engaged in a  
2 protected activity regarding practices made unlawful by Title VII.

3 9. Defendant will provide prior written notice to any potential purchaser of  
4 Defendant's businesses, or a purchaser of all or a portion of Defendant's assets, and to any other  
5 potential successor, of the EEOC's lawsuit, the allegations raised in the EEOC's complaint, and  
6 the existence and contents of this Consent Decree. In recognition of its obligations under the  
7 Title VII, Defendant shall institute the policies and practices set forth below at all of its facilities.

8 B. Anti-Discrimination Policies and Procedures

9 10. EEO Policies. Defendant shall review, revise and implement written policies and  
10 procedures prohibiting harassment, discrimination and retaliation for complaining about or  
11 otherwise reporting harassment and discrimination in compliance with Title VII. The policies  
12 and procedures will state that they are promulgated at the direction of and with the endorsement  
13 by the highest level of Taylor's management. These policies and procedures shall be provided to  
14 the EEOC for review and comment no later than thirty (30) days prior to implementation.  
15 Within fourteen (14) days of receipt, the EEOC will advise Defendant of any comments. EEOC  
16 agrees to review the proposed policies and procedures in good faith.

17 11. Defendant will thereafter incorporate the policies and procedures into its  
18 employee handbook. No later than (30) days after the entry of this Consent Decree, Defendant  
19 will confirm that it has distributed a written copy of its EEO policies to its managers,  
20 supervisors, and employees. Thereafter, Defendant agrees to distribute its EEO policies to  
21 employees annually.

22 12. Complaint Procedures. Defendant shall implement employee complaint  
23 procedures to ensure convenient access to points of contact for reporting and require a timely  
24 response by the company. The procedures shall: 1) identify multiple points of contact through  
25 which employees can lodge complaints, including contact information for officials who will be

1 available during night-shift hours to field and address complaints of harassment and  
2 discrimination, 2) allow complaints to be submitted verbally, without need of submission of a  
3 written statement, and 3) provide a method for documenting verbal complaints by management.  
4 The procedures shall also include a statement from a high-ranking company official encouraging  
5 employees to come forward with complaints of discrimination and harassment and reiterating the  
6 prohibition against retaliation.

7 13. Investigation Procedures. Defendant shall implement an investigation procedure  
8 to ensure fair and competent investigations of complaints of discrimination, harassment and  
9 retaliation. The procedures shall, at a minimum, include requirements that: 1) Defendant begin  
10 the investigation of a complaint no later than two business days after the receipt, and 2)  
11 Defendant memorialize findings and corrective action in a written report including, at minimum,  
12 the allegations of the complaint, the identities of all named witnesses, all witness statements, a  
13 summary of documentary evidence, an explanation of investigative findings and a description of  
14 any corrective action taken.

15 14. Policy Modifications. In the event that Defendant modifies any of the policies  
16 listed in paragraphs 12-13, above during the duration of the Decree, Defendant shall submit to  
17 the EEOC for its review and consideration the proposed modifications no later than thirty (30)  
18 days before adoption. EEOC will notify Defendants within fourteen (14) days of receipt of the  
19 proposed modifications if it has any comments about the proposed modifications. EEOC agrees  
20 to review the proposed modifications in good faith.

21 C. Equal Employment Opportunity Training

22 15. Within one hundred and twenty (120) days of entry of this Consent Decree,  
23 Defendant will provide training to all employees to ensure that they understand their rights and  
24 responsibilities under the anti-harassment, anti-discrimination and anti-retaliation laws and  
25 Defendant's policies and procedures. The training shall include specific instruction regarding

1 Defendant's revised EEO procedures and policies and will include sample scenarios specifically  
2 related to harassment, discrimination and retaliation. The training shall also include information  
3 about the different avenues by which a discrimination complaint may be submitted and contact  
4 information for the EEOC. The training shall educate employees about conduct that is  
5 unacceptable in the workplace, including behavior which, if left unchecked, may rise to the level  
6 of harassment. The training also shall include bystander intervention training that will emphasize  
7 the responsibility of a co-worker who observes workplace harassment to report it to  
8 management. Defendant shall ensure that the training is developed and administered by  
9 instructors with expertise in anti-harassment and anti-discrimination matters. The duration of  
10 this training should be no less than one and one half (1.5) hours.

11 16. In addition, employees with supervisory and/or human resources responsibilities  
12 shall receive training regarding Defendant's policies, including supervisor performance  
13 standards, and procedures related to investigations of complaints of harassment, discrimination  
14 and retaliation. The training will include how to conduct competent and unbiased investigations.  
15 The training further will inform each participant that he or she is responsible for knowing and  
16 complying with of Defendant's antidiscrimination policies and investigation procedures. The  
17 duration of this training should be no less than four (4) hours.

18 17. Thereafter, and continuing during the duration of this Consent Decree, Defendant  
19 shall conduct yearly two hour trainings for all supervisory and human resources personnel on this  
20 same subject matter.

21 18. All training shall be conducted by a third-party with established experience  
22 conducting anti-harassment, anti-discrimination and anti-retaliation training. Defendant shall  
23 identify all proposed trainers and/or curriculum consultants for the initial training within thirty  
24 (30) days of the entry of this Consent Decree. The EEOC will raise any objections to the  
25 proposed trainers/consultants within fourteen (14) days. Thereafter, for all subsequent training

1 sessions, Defendant shall provide the EEOC with copies of all training materials no later than  
2 thirty (30) days prior to its use. The EEOC will advise Defendant of any comments to proposed  
3 training materials within fourteen (14) days. The EEOC agrees to review the training materials  
4 in good faith.

5 19. All costs of training shall be borne Defendant. Defendant shall ensure that  
6 participants sign attendance sheets to certify receipt of training, which it will retain during the  
7 duration of this Consent Decree.

8 D. Employee Records and Neutral Employment Reference

9 20. Defendants shall provide a positive job reference for Mr. Daniels, including a  
10 statement that he is eligible for rehire, when asked by any prospective employer.

11 21. Defendant shall not disclose any information about or refer to Mr. Daniels' charge  
12 of discrimination in responding to employment reference requests or other information requests  
13 about Mr. Daniels.

14 22. Defendant hereby certifies that the personnel file of Mr. Daniels does not contain  
15 any reference to any charge or allegation of discrimination against Defendant and this lawsuit.

16 E. Policies Designed to Promote Supervisor Accountability

17 23. Defendant shall adopt performance policies and standards that evaluate  
18 supervisors and managers on their compliance with EEO policies procedures, and which  
19 expressly hold all supervisory and management employees accountable for maintaining a  
20 workplace free of discrimination, harassment and retaliation. Supervisors and managers will be  
21 notified that their violations of the companies' antidiscrimination policies shall result in  
22 appropriate discipline up to and including termination. In addition, supervisors shall be informed  
23 of their obligation to report, prevent and correct any discrimination, harassment or retaliation  
24 they observe or become aware of in the workplace. They shall be warned that a failure to take  
25 action may also result in disciplinary action. Further, Defendant will revise its performance

1 evaluation for supervisors and managers to include a provision evaluating his or her compliance  
2 with the revised EEO policies and procedures, including his or her response to complaints of  
3 discrimination. Defendant will use this performance evaluation throughout the duration of this  
4 Decree.

5 F. Reporting

6 24. Defendant shall report to the EEOC for a period of three (3) years as provided  
7 herein. The reports shall be in writing and submitted on a semi-annual basis during the three-  
8 year reporting period. The reporting period will run from the date of entry of this Consent  
9 Decree.

10 25. The semi-annual reports shall contain the following information and attachments:

- 11 a. Certification by the Taylor human resources department of the completion of  
12 training and list of attendees set forth in Paragraph 11 above, and a list of all  
13 attendees including job titles.
- 14 b. Certification that Defendant has continued to maintain its written EEO policies  
15 and procedures and to annually distribute copies of its EEO policy as described in  
16 Paragraphs 10-13.
- 17 c. Defendant shall provide the following information for any employee who has  
18 made a complaint of discrimination, harassment, and/or retaliation:
- 19 i. Name of the individual.
- 20 ii. Home address, home and cell phone numbers and email address of the  
21 individual.
- 22 iii. A report of the resolution of each complaint including the identification of  
23 the individuals involved, their titles, the particulars of the complaint, a summary  
24 of the investigation, the company's determination and any corrective action taken.  
25



- 1 c. A copy of its EEO policy and a list of any changes, modifications, revocations or  
2 revisions to its EEO policies and procedures if any, which concern or affect the  
3 subject of harassment, discrimination, and retaliation;  
4 d. A summary of formal and informal discrimination complaints that allege  
5 harassment or retaliation, if any, filed by any employee, and the resolution of each  
6 such complaint; and  
7 e. A certification that Defendant has complied with all other provisions of this  
8 Consent Decree.

9 26. If applicable, Defendant shall submit a statement with its report to the EEOC  
10 specifying the areas of noncompliance, the reason for the noncompliance, and steps that were or  
11 shall be taken to bring the Company into compliance.

12 G. Posting

13 27. Defendant shall post a Notice to all Employees. This Notice is attached as  
14 Exhibit A to this Consent Decree. The Notice shall be posted on a centrally located bulletin  
15 board at each of Defendant's facilities in Washington for the duration of the Consent Decree.

16 VI. ENFORCEMENT

17 28. If the EEOC determines that Defendant has not complied with the terms of this  
18 Consent Decree, the EEOC shall provide written notification of the alleged breach to Defendant.  
19 The EEOC shall not petition the Court for enforcement of this Consent Decree for at least twenty  
20 (20) days after providing written notification of the alleged breach. The 20-day period following  
21 the written notice shall be used by the EEOC and Defendant for good faith efforts to resolve the  
22 dispute.

23 VII. RETENTION OF JURISDICTION

24 29. The United States District Court for the Western District of Washington shall  
25 retain jurisdiction over this matter for the duration of this Consent Decree.

VIII. DURATION AND TERMINATION

30. This Consent Decree shall be in effect for three (3) years from the date of entry of the Decree. If the EEOC petitions the Court for breach of this Consent Decree, and the Court finds The Company to be in violation of the terms of the Consent Decree, the Court may extend the duration of this Consent Decree.

DATED this 20<sup>th</sup> day of July, 2017

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